

Subject Commerce Omnibus

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Overview

This is the 2021 omnibus commerce finance and policy bill. It appropriates funding in state fiscal years 2022 and 2023.

Article 1: Commerce Finance

Section Description – Article 1: Commerce Finance

- 1 **Appropriations.**
Inserts boilerplate language regarding interpretation of the appropriation format used in this article.
- 2 **Department of Commerce.**
Appropriates general fund and other fund dollars to the Department of Commerce for specific purposes.
 - Subd. 1. Total appropriation.** Denotes the total amount of money, by fund, appropriated to the Department of Commerce.
 - Subd. 2. Financial institutions.** Appropriates general fund money for financial institutions. Appropriates money for grants to Prepare and Prosper and the Minnesota Council on Economic Education.
 - Subd. 3. Administrative services.** Appropriates general fund money for administrative services. Appropriates money for unclaimed property compliance, operations, system modernization, and cybersecurity upgrades, and Real Estate Appraisal Advisory Board compensation.

Section Description – Article 1: Commerce Finance

Subd. 4. Telecommunications. Appropriates general fund and the telecommunications access fund money for telecommunications. Appropriates money to the commissioner of human services to supplement the operation of the Commission of Deaf, DeafBlind, and Hard-of-Hearing Minnesotans, to the chief information officer to coordinate technology accessibility, to the Legislative Coordinating Commission to caption legislative coverage, and to MN.IT Services to provide other state agencies with grants or services related to accessibility of web-based services. Requires the commissioner of management and budget to determine whether federal funding received under the Coronavirus State Fiscal Recovery Fund or other federal funds from the American Rescue Plan Act are available; then eligible expenditures are appropriated from the account and corresponding amounts that were appropriated to the Legislative Coordinating Commission for captioning of legislative coverage from the Telecommunications Access Minnesota Fund are canceled to the Telecommunications Access Minnesota Fund.

Subd. 5. Enforcement. Appropriates general fund, workers' compensation fund, and consumer education account special revenue fund money. Appropriates money for health care enforcement, insurance fraud specialist salary increases, and transfers money from the consumer education account to the general fund and then appropriates money to the commissioner of education for grants to the Minnesota Council on Economic Education. Appropriates money from the general fund and the auto theft prevention account for the catalytic converter theft prevention pilot project.

Subd. 6. Insurance. Appropriates general fund and workers' compensation fund money. Appropriates money for health insurance rate review staffing, actuarial work to implement principle-based reserves, dues for the National Association of Insurance Commissioners, licensing pharmacy benefit managers, and to establish, run, and enforce the decisions of the Prescription Drug Affordability Board.

3 Cancellation; fiscal year 2021.

\$1,220,000 of the fiscal year 2021 general fund appropriations under Laws 2019, First Special Session chapter 7, article 1, section 6, subdivision 3, is canceled.

Effective date. This section is effective the day following final enactment.

4 Department of Commerce.

(a) Appropriates \$4,000 in fiscal year 2021 from the workers' compensation fund to the commissioner of commerce for insurance fraud specialist salary increases.

(b) Appropriates \$97,000 in fiscal year 2021 from the general fund to the commissioner of commerce for enforcement.

Section Description – Article 1: Commerce Finance

Effective date. This section is effective the day following final enactment.

Article 2: Prescription Drug Affordability Board

Section Description – Article 2: Prescription Drug Affordability Board

1 Citation.

Adds § 62J.85. States that sections 62J.85 to 62J.95 may be cited as the “Prescription Drug Affordability Act.”

2 Definitions.

Adds § 62J.86. Defines the following terms: advisory council, biologic, biosimilar, board, brand name drug, generic drug, group purchaser, manufacturer, prescription drug product, and wholesale acquisition cost (WAC).

3 Prescription Drug Affordability Board.

Adds § 62J.87.

Subd. 1. Establishment. Requires the commissioner of commerce to establish the Prescription Drug Affordability Board to protect consumers, state and local governments, health plan companies, providers, pharmacies, and other stakeholders from unaffordable costs of certain prescription drugs.

Subd. 2. Membership. (a) Provides that the board consists of nine members—seven appointed by the governor, one nonvoting member by the majority leader of the senate, and one nonvoting member by the speaker of the house.

(b) Requires members to have knowledge and expertise in pharmaceutical economics and finance or health care economics and finance, and not be an employee or board member of, or consultant to, a manufacturer or trade association for manufacturers or a pharmacy benefit manager or trade association for pharmacy benefit managers.

(c) Requires initial appointments to be made by January 1, 2022.

Subd. 3. Terms. States that appointees serve four-year terms, except that initial appointees shall serve staggered terms. Prohibits members from serving more than two consecutive terms. Allows members to resign at any time by giving written notice.

Section Description – Article 2: Prescription Drug Affordability Board

Subd. 4. Chair; other officers. Specifies the procedure to be used for designating and electing the chair, vice-chair, and other officers.

Subd. 5. Staff; technical assistance. (a) Requires the board to hire an executive director and other staff, and specifies required qualifications for the executive director. Allows the board to employ or contract for professional and technical assistance.

(b) Requires the attorney general to provide legal services to the board.

Subd. 6. Compensation. States that members shall not receive compensation but may be reimbursed for expenses.

Subd. 7. Meetings. Applies the open meetings law to the board. Requires the board to meet publicly at least every three months to review prescription drug product information that is submitted, and to allow for public comment. Specifies other requirements related to meetings.

4 Prescription Drug Affordability Advisory Council.

Adds § 62J.88.

Subd. 1. Establishment. Requires the governor to appoint an advisory council to advise the commission on drug cost issues and represent stakeholder views. Specifies criteria related to knowledge and expertise of members.

Subd. 2. Membership. Specifies membership.

Subd. 3. Terms. Requires initial appointments to be made by January 1, 2022, and specifies requirements for staggered and regular terms and removal and vacancies.

Subd. 4. Compensation. Provides that members receive compensation according to the standard procedures that apply to advisory councils and committees.

Subd. 5. Meetings. States that the council is subject to the open meeting law and requires the council to meet at least every three months.

Subd. 6. Exemption. Provides that the council does not expire.

5 Conflicts of interest.

Adds § 62J.89.

Subd. 1. Definition. Defines “conflict of interest.”

Section Description – Article 2: Prescription Drug Affordability Board

Subd. 2. General. Requires board and advisory council members, board staff, and third-party contractors to disclose any conflicts of interest prior to entering into any appointment, employment, or contract. Specifies recusal and disclosure requirements.

Subd. 3. Prohibitions. Prohibits board and advisory council members, board staff, or third-party contractors from accepting gifts, bequeaths, or donations that raise the specter of a conflict of interest or have the appearance of injecting bias.

6 Prescription drug price information; decision to conduct cost review.

Adds § 62J.90.

Subd. 1. Drug price information from the commissioner of health and other sources. (a) Requires the commissioner of health to provide the board with the information provided to the commissioner by drug manufacturers under section 62J.84, subdivisions 3, 4, and 5, within 30 days of the date the information is received.

(b) Directs the board to subscribe to one or more prescription drug pricing files.

Subd. 2. Identification of certain prescription drug products. (a) Requires the board, in consultation with the advisory council, to identify the following drug products:

(1) brand name drugs or biologics for which the WAC increases by more than ten percent or by more than \$10,000 during any 12-month period or course of treatment if less than 12 months, after adjusting for changes in the CPI;

(2) brand name drugs or biologics that have been introduced at a WAC of \$30,000 or more per calendar year or course of treatment;

(3) biosimilar drugs that have been introduced at a WAC that is not at least 15 percent lower than the referenced brand name biologic; and

(4) generic drugs for which the WAC is: (i) \$100 or more, after adjusting for changes in the CPI, for: (A) a 30-day supply; (B) a supply lasting less than 30 days; or (C) one unit of the drug if FDA labeling does not recommend a finite dosage; and (ii) increased by 200 percent or more during the preceding 12-month period, after adjusting for changes in the CPI.

(b) Requires the board, in consultation with the advisory council, to identify prescription drug products not described in paragraph (a), that may impose costs that create significant affordability challenges for the state health care system or patients, including but not limited to drugs to address public health emergencies.

Section Description – Article 2: Prescription Drug Affordability Board

(c) Requires the board to make available to the public the names and price information of the prescription drug products identified under this subdivision, with the exception of information determined by the board to be proprietary.

Subd. 3. Determination to proceed with review. (a) Allows the board to initiate a review of the cost of a prescription drug product identified by the board under this section.

(b) Requires the board to consider public requests for a cost review of any prescription drug product identified under this section.

(c) If there is no consensus on whether to review a drug, allows any member of the board to request a vote on whether to review.

7 Prescription drug product reviews.

Adds § 62J.91.

Subd. 1. General. Upon a decision to proceed with a cost review, requires the board to conduct the review and determine whether appropriate utilization of the drug, based on the FDA label and standard medical practice, has led or will lead to affordability challenges for the state health care system or for patients.

Subd. 2. Review considerations. Specifies the factors the board may consider in reviewing the cost of a prescription drug product. The specified factors are: selling price of the drug; average monetary price concession, discount, or rebate provided to group purchasers; price of therapeutic alternatives; the average concession, discount, or rebate provided for these alternatives; cost to group purchasers; impact on patient access relative to cost and insurance design; the value of patient access programs; financial impact relative to baseline effects of existing alternatives; co-pays and cost-sharing; any information provided by the manufacturer; and any other factors determined by the board.

Subd. 3. Further review factors. If the commission, after considering the factors listed under subdivision 2, is unable to determine whether the drug has produced or will produce an affordability challenge, allows the commission to consider the following additional factors: research and development costs; direct-to-consumer marketing costs; gross and net manufacturer revenues; specified factors related to the selection of the introductory price or price increase; and additional factors determined by the board to be relevant.

Subd. 4. Public data; proprietary information. (a) Requires submissions to the board related to a drug cost review to be made public, with the exception of information the board determines is proprietary.

Section Description – Article 2: Prescription Drug Affordability Board

(b) Requires the board to establish standards for proprietary information.

(c) Requires the board to provide public notice and an opportunity for public comment prior to establishing standards under paragraph (b).

8 Determinations; compliance; remedies.

Adds § 62J.92.

Subd. 1. Upper payment limit. (a) If the board determines that spending on a prescription drug product creates an affordability challenge, directs the board to establish an upper payment limit after considering the cost of administering the drug, cost of delivering the drug to consumers, the range of prices at which the drug is sold in the U.S. and the range of pharmacy reimbursement in Canada, and other relevant pricing and administrative cost information.

(b) States that the upper payment limit applies to all public and private purchases, payments, and payer reimbursements for the drug product intended for individuals in the state in person, by mail, or other means.

Subd. 2. Noncompliance. (a) Requires noncompliance by an entity to comply with an upper payment limit set by the board to be referred to the attorney general.

(b) If the attorney general finds that an entity was noncompliant, allows the attorney general to pursue remedies under chapter 8 or appropriate criminal charges if there is evidence of intentional profiteering.

(c) Provides that an entity that obtains price concessions from a manufacturer that result in a lower net cost to the stakeholder than the limit established by the board shall not be considered in noncompliance.

(d) Allows the attorney general to provide guidance to stakeholders on activities that could be considered noncompliant.

Subd. 3. Appeals. Allows appeals of board decisions and specifies procedures.

9 Reports.

Adds § 62J.93. Requires the board, beginning March 1, 2022, and each March 1 thereafter, to report to the governor and legislature on general price trends in prescription drug products and the number of drugs subject to the board's cost review and analysis, including the result of any analysis and the number and disposition of appeals and judicial reviews.

Section Description – Article 2: Prescription Drug Affordability Board

10 ERISA plans and Medicare drug plans.

Adds § 62J.94.

(a) States that nothing in sections 62J.85 to 62J.95 shall be construed to require ERISA plans or Medicare Part D plans to comply with board decisions. Provides that these plans are free to exceed the upper payment limit set by the board.

(b) Requires providers who dispense and administer drugs in the state to bill all payers no more than the upper payment limit without regard to whether or not an ERISA plan or Medicare Part D plan chooses to reimburse the provider in an amount greater than the upper payment limit.

(c) Defines an ERISA plan or group health plan.

11 Severability.

Adds § 62J.95. Provides that sections 62J.85 to 62J.94 are severable.

Article 3: Insurance

Section Description – Article 3: Insurance

1 Other jurisdictions.

Adds cross-reference.

Effective date. This section is effective January 1, 2022, and applies to reinsurance contracts entered into or renewed on or after that date.

2 Credit allowed; reciprocal jurisdiction.

(a) Explains the criteria an assuming insurer must meet in order for a ceding insurer to receive credit.

(b) Requires the commissioner of commerce to create and publish a list of reciprocal jurisdictions.

(c) Requires the commissioner of commerce to create and publish a list of assuming insurers that have met the criteria of this subdivision.

(d) Allows the commissioner to revoke or suspend the eligibility of an assuming insurer if the insurer no longer meets the criteria of this subdivision.

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(e) Requires the commissioner of commerce to take certain steps before denying statement credit or requiring an insurer to post security.

(f) Allows the commissioner of commerce to obtain an order requiring the assuming insurer to post security for outstanding ceded liabilities if certain events occur.

(g) Clarifies that nothing in this subdivision limits or alters the ability of parties to a reinsurance agreement to agree on other security terms.

(h) Clarifies that credit can be taken under this subdivision only for reinsurance agreements executed, amended, or renewed on or after the effective date and only with respect to losses and reserves that meet certain criteria.

Effective date. This section is effective January 1, 2022, and applies to reinsurance contracts entered into or renewed on or after that date.

3 Certification procedure.

(d)(8) Provides that the commissioner of commerce will review audited financial statements for the last two years, instead of three.

Effective date. This section is effective January 1, 2022, and applies to reinsurance contracts entered into or renewed on or after that date.

4 Fees other than examination fees.

Changes certain filing fees for insurers.

5 Definitions.

Defines terms including “cybersecurity event,” “multifactor authentication,” “nonpublic information,” and “third-party service provider” as used in the new sections of law.

Effective date. This section is effective August 1, 2021.

6 Information security program.

Subd. 1. Implementation of an information security program. Requires licensees to develop, implement, and maintain a comprehensive written information security program based on the licensee’s risk assessment.

Subd. 2. Objectives of an information security program. Requires an information security program to protect the security and confidentiality of nonpublic information and the information system; protect against threats or hazards to nonpublic information or the information system; protect against unauthorized

Section Description – Article 3: Insurance

access to, or use of, nonpublic information; and define and reevaluate a schedule from retention of nonpublic information.

Subd. 3. Risk assessment. Requires licensees to identify a person responsible for the information security program; identify reasonably foreseeable threats; assess the likelihood of, and damage from, those threats; assess the sufficiency of policies, procedures, information systems, and other safeguards; and implement information safeguards to manage identified threats.

Subd. 4. Risk management. Directs licensees to design systems to mitigate identified risks, implement appropriate security measures, include cybersecurity risks in the licensee's enterprise risk management process, stay informed about possible threats, and provide personnel with cybersecurity awareness training.

Subd. 5. Oversight by board of directors. Directs a licensee's board of directors to require development and implementation of an information security program and require a report on that program.

Subd. 6. Oversight of third-party service provider arrangements. Requires licensees to exercise due diligence in selecting third-party service providers and directs licensees to require those third-party service providers to implement appropriate safeguards to protect information systems and nonpublic information.

Subd. 7. Program adjustments. Directs licensees to monitor and adjust the information security program consistent with new information or changes in technology.

Subd. 8. Incident response plan. Requires licensees to include an incident response plan as part of their information security programs and establishes minimum requirements for those plans.

Subd. 9. Annual certification to commissioner. Requires insurers domiciled in Minnesota to annually certify in writing that they are in compliance with this section, maintain records for five years, permit inspection of those records, document areas that require improvement, and permit inspection of that documentation.

Effective date. This section is effective August 1, 2021. Licensees have one year from the effective date to implement subdivisions 1 to 5 and 7 to 9, and two years from the effective date to implement subdivision 6.

Section Description – Article 3: Insurance

7 Investigation of a cybersecurity event.

Requires a licensee to perform a prompt investigation after learning that a cybersecurity event may have occurred. The investigation must determine if an event took place and, if so, identify the nature and scope of the event and whether any nonpublic data was involved. Further requires a licensee to either perform an investigation or confirm that one has occurred if a cybersecurity event may have occurred in a system maintained by a third-party service provider. Requires the licensee to maintain records for five years and produce records on demand of the commissioner.

Effective date. This section is effective August 1, 2021.

8 Notification of a cybersecurity event.

Subd. 1. Notification to the commissioner. Requires a licensee to notify the commissioner of commerce or the commissioner of health, as applicable, when a cybersecurity event occurred that involved a reasonable likelihood of material harm to a consumer or the normal operations of a licensee; or the licensee reasonably believes that the nonpublic information involved belongs to 250 or more consumers living in Minnesota and either notice is required under other provisions or the event has a reasonable likelihood of material harm to a consumer or the normal operations of a licensee.

Subd. 2. Information; notification. The licensee providing notification must do so in electronic form and has a duty to update the information submitted. As applicable, notification should include information in 13 different categories including the date of the event, how the event was discovered, whether any data was recovered, and the results of any internal review.

Subd. 3. Notification to consumers. Requires a licensee to provide notice—in the manner prescribed under the subdivision—to a consumer if, as a result of a cybersecurity event, the consumer’s nonpublic information was compromised in a way that poses a risk of material harm.

Subd. 4. Notice regarding cybersecurity events of third-party service providers. Requires a licensee to treat a cybersecurity event in a system maintained by a third-party service provider as it would treat an event under subdivision 1. Permits licensees to contract with third-party service providers regarding the duty comply with this subdivision.

Subd. 5. Notice regarding cybersecurity events of reinsurers to insurers. Requires a reinsurer to send notice of a cybersecurity event to the commissioner and to the ceding insurer. Directs the ceding insurer to send any relevant notification to the customer.

Section Description – Article 3: Insurance

Subd. 6. Notice regarding cybersecurity events of insurers to producers of record. Requires insurers to notify the producers of record of all affected consumers following a cybersecurity event.

Effective date. This section is effective August 1, 2021.

9 Power of commissioner.

Grants the commissioner of commerce or commissioner of health, as applicable, power to investigate a licensee to determine if the licensee engaged in conduct that violates the new law, and take appropriate enforcement action.

Effective date. This section is effective August 1, 2021.

10 Confidentiality.

Subd. 1. Licensee information. Classifies data in the possession of the commissioner provided pursuant to the new law as confidential, protected nonpublic, or both, but permits the commissioner to use the data in a regulatory or legal action.

Subd. 2. Certain testimony prohibited. Provides that the commissioner and any other person who received the documents while acting under the authority of the commissioner shall not be required to testify in any civil action concerning confidential documents or information.

Subd. 3. Information sharing. Permits the commissioner to receive and share certain documents and information with other entities including state, federal, and international regulatory agencies and the National Association of Insurance Commissioners.

Subd. 4. No waiver of privilege or confidentiality. Provides that sharing documents or information pursuant to subdivision 3 does not waive any applicable privilege or claim of confidentiality.

Subd. 5. Certain actions public. Permits the commissioner to release final, adjudicated actions that are open to the public pursuant to chapter 13.

Subd. 6. Classification, protection, and use of information by others. Provides that documents and other information in the possession or control of the National Association of Insurance Companies is classified as confidential, protected nonpublic, and privileged.

Effective date. This section is effective August 1, 2021.

Section Description – Article 3: Insurance

11 Exceptions.

Establishes exceptions for a licensee with fewer than 25 employees, licensees subject to other data privacy laws, licensees covered by the information security program of another licensee, and employees of a producer licensee.

Effective date. This section is effective August 1, 2021.

12 Penalties.

Provides that violations of the new sections of law may be penalized in accordance with existing law, as described in section 60A.052, which includes suspension or revocation.

Effective date. This section is effective August 1, 2021.

13 Minimum values.

Changes the minimum interest rate in determining minimum nonforfeiture amounts for annuity contracts from one percent to 0.15 percent.

Effective date. This section is effective the day following final enactment.

14 Restrictions.

Amends § 62J.23, subd. 2. Includes prescription drugs administered through injection, or other parenteral methods, in the definition of “prescription drug” for purposes of the exemption of prescription drug discounts, price reductions, a limited time free supply, or samples, from the state application of the Medicare antikickback law to all persons in the state.

15 Requirements for timely provider credentialing.

Adds § 62Q.097. Establishes requirements governing the process of health care provider credentialing by health plan companies.

Subd. 1. Definitions. Defines terms for this section:

- “Clean application for provider credentialing,” or “clean application,” means a credentialing application that is complete, is in the required format, includes all required information and substantiation, and does not require evaluation of identified potential quality or safety concerns.
- “Provider credentialing” means a process by a health plan company to evaluate a provider’s education, training, licensure, and history of quality or safety concerns to approve the provider to provide services to patients at a clinic or facility.

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Subd. 2. Time limit for credentialing determination. Requires a health plan company that receives an application for provider credentialing to do the following. If the application is a clean application and if the provider so requests, the health plan company must notify the provider that the application is clean and when the health plan company will make a determination on the application. If the application is not a clean application, the health plan company must notify the provider of the application's deficiencies within three business days after a determination that the application is not clean. A health plan company must make a determination on a clean application within 45 days after receipt and, upon notice to the provider, clinic, or facility, may take 30 additional days to investigate quality or safety concerns.

Effective date. This section applies to applications for provider credentialing submitted to a health plan company on or after January 1, 2022.

16 Screening and testing for opioids.

Adds § 62Q.497. (a) Prohibits a health plan company from placing lifetime or annual limits on screenings and urinalysis testing for opioids under certain circumstances.

(b) Clarifies that this section does not apply to medical assistance or MinnesotaCare.

Effective date. This section is effective January 1, 2022, and applies to health plans offered, issued, or renewed on or after that date.

17 Laboratory and x-ray services.

Provides that medical assistance must cover screenings and urinalysis tests for opioids without lifetime or annual limits.

Effective date. This section is effective January 1, 2022.

18 Repealer.

Repeals Minnesota Statutes, sections 60A.98, 60A.981, and 60A.982.

Effective date. This section is effective August 1, 2021.

Article 4: Consumer Protection

Section Description – Article 4: Consumer Protection

1 Student loan servicers.

States that data under chapter 58B is governed by section 58B.10.

Section Description – Article 4: Consumer Protection

2 Application.

Removes a cross-reference to section 47.60.

Effective date. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

3 Authorization, terms, conditions, and prohibitions.

Allows a consumer small lender to charge interest, finance charges, and fees on a loan of up to 36 percent APR.

Effective date. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

4 Consumer short-term loan contract.

Removes cross-reference to section 47.59 and removes de minimus exception.

Effective date. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

5 Penalties for violation; private right of action.

Removes cross-reference to section 47.59.

Effective date. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

6 Required information.

Removes an out of date reference.

7 Confirm no voluntary closing.

Clarifies that the limitations under this paragraph do not apply to programs designed to expand access to people who do not have access to a transaction account at a bank or credit union.

8 Transaction account service charges and charges relating to dishonored checks.

Changes the amount a financial intermediary can charge for a dishonored check to a person other than the issuer from \$4 to \$10.

9 Loans.

Requires industrial loan and thrift companies making consumer small loans or consumer short-term loans to comply with the requirements of sections 47.60 and 47.601, as applicable.

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Effective date. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

10 Interest rates and charges.

Requires regulated lenders (finance companies) making consumer small loans or consumer short-term loans to comply with the requirements of sections 47.60 and 47.601, as applicable.

Effective date. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

11 [58B.01] Title.

This chapter may be cited as the “Student Loan Borrower Bill of Rights.”

12 [58B.02] Definitions.

Provides definitions for borrower, financial institution, student loan, and student loan servicer.

13 [58B.03] Licensing of student loan servicers.

Subd. 1. License required. Requires student loan servicers to obtain a license from the commissioner.

Subd. 2. Exempt persons. Exempts certain persons from the requirements of this chapter.

Subd. 3. Application for licensure. Requires an application for a student loan servicer license to be filed with the commissioner, contain certain financial and legal information, and such fees as the commissioner establishes. Allows the commissioner to conduct a state and national criminal history check for each applicant and persons in control of an applicant.

Subd. 4. Issuance of license. Allows the commissioner to issue a license if the applicant meets certain financial and business requirements. Prohibits a license from being transferred or assigned.

Subd. 5. Notification of change in status. Requires an applicant or student loan servicer to notify the commissioner of any change from their initial or most recent renewal application.

Subd. 6. Term of license. Provides that a license expires on December 31 and is renewable on January 1.

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Subd. 7. Exemption from application. (a) Provides a person servicing student loans in this state pursuant to a contract awarded by the United States Secretary of Education an exemption from the requirements of subdivision 3.

(b) Requires the commissioner to issue a license to a person exempt under paragraph (a).

Subd. 8. Notice. (a) Requires a person issued a license under subdivision 7 to notify the commissioner if their contract with the United States Secretary of Education expires, is revoked, or terminated.

(b) Provides a person issued a license under subdivision 7 with 30 days to complete the requirements of subdivision 3 if their contract with the United States Secretary of Education expires, is revoked, or terminated.

14 **[58B.04] Licensing multiple places of business.**

Requires a student loan servicer to service loans under one name and one location. Requires the servicer to notify the commissioner if their place of business changes. Allows the commissioner to issue a servicer more than one license.

15 **[58B.05] License renewal.**

Subd. 1. Term. Provides that licenses are renewable on January 1.

Subd. 2. Timely renewal. (a) Provides the requirements for filing a timely license renewal.

(b) Provides that person who does not timely file a license renewal is unlicensed until a renewal license is issued by the commissioner.

Subd. 3. Contents of renewal application. Requires certain information be submitted with the renewal application.

Subd. 4. Cancellation. Allows a student loan servicer that no longer wants to be licensed to inform the commissioner and surrender the license. A servicer must submit a plan for the withdrawal from student loan servicing.

Subd. 5. Renewal fees. Requires fees, as established by the commissioner, to be paid with a renewal application.

16 **[58B.06] Duties of student loan servicers.**

Subd. 1. Response requirements. Requires a student loan servicer to acknowledge receipt of a written communication from a borrower in less than

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ten days and provide information to the borrower regarding how/if the servicer can correct the borrower's issue in less than 30 days.

Subd. 2. Overpayments. Requires a student loan servicer to apply overpayments as instructed by the borrower.

Subd. 3. Partial payments. Requires a student loan servicer to apply partial payments in a way that minimizes late fees and the negative impact on the borrower's credit history. Requires partial payments, where a borrower has multiple loans, to be applied to satisfy as many individual loan payments as possible.

Subd. 4. Transfer of student loan. (a) Requires a student loan servicer that sells, assigns, or transfers servicing of a loan to require the new servicer to provide all benefits that were available to the borrower from the original servicer and transfer all information regarding the borrower to the new servicer.

(b) Requires a student loan servicer to complete the transfer of borrower information in less than 45 days from the date of the sale, assignment, or transfer.

(c) Requires a sale, assignment, or transfer of servicing to be completed no less than seven days from the date the next payment is due on the student loan.

(d) Requires a new student loan servicer to adopt policies and procedures to verify the original servicer meets the requirements of paragraph (a).

Subd. 5. Income-driven repayment. Requires a student loan servicer to evaluate a borrower for eligibility for an income-driven repayment program before placing a borrower in forbearance or default.

Subd. 6. Records. Requires a student loan servicer to maintain adequate records of a student loan for two years following the last payment on the student loan or the sale, assignment, or transfer of the student loan.

Effective date. This section is effective July 1, 2021, and applies to student loan contracts executed on or after that date.

17 **[58B.07] Prohibited conduct.**

Subd. 1. Misleading borrowers. Prohibits a student loan servicer from directly or indirectly attempting to mislead a borrower.

Subd. 2. Misrepresentation. Prohibits a student loan servicer from engaging in unfair or deceptive practices or misrepresenting or omitting any material information relating to servicing. This includes misrepresenting the amount,

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nature, or terms of fees, payments due, terms and conditions, or the borrower’s obligation.

Subd. 3. Misapplication of payments. Prohibits a student loan servicer from knowingly or negligently misapplying payments.

Subd. 4. Inaccurate information. Prohibits a student loan servicer from knowingly or negligently providing inaccurate information to a consumer reporting agency.

Subd. 5. Reporting of payment history. Requires a student loan servicer to report both favorable and unfavorable payment histories of a borrower to a consumer reporting agency at least annually, if the servicer regularly reports such information.

Subd. 6. Refusal to communicate with a borrower’s representative. Prohibits a student loan borrower from refusing to communicate with a properly authorized borrower representative. A servicer may adopt reasonable verification procedures for representatives.

Subd. 7. False statements and omissions. Prohibits a student loan servicer from knowingly or negligently making any false statements or omissions of material fact in connection with an application, information, or reports filed with the commissioner or other government agency.

Subd. 8. Noncompliance with applicable law. Prohibits a student loan servicer from violating other laws, including those related to fraud, or coercive or dishonest practices.

Subd. 9. Incorrect information regarding student loan forgiveness. Prohibits a student loan servicer from misrepresenting the availability of student loan forgiveness.

Subd. 10. Compliance with servicer duties. Requires a student loan servicer to comply with the duties and obligations under section 58B.06.

18 **[58B.08] Examinations.**

Provides the commissioner with the same powers to examine student loan servicers that the commissioner has under section 46.04.

19 **[58B.09] Denial, suspension, revocation of licenses.**

Subd. 1. Powers of commissioner. Allows the commissioner to take action against a licensee, including barring a person from servicing loans, denying, suspending, or revoking a license, censuring a servicer, revoking an exemption,

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order restitution, and imposing civil penalties. Requires the commissioner to ensure that before an action is taken the order is in the public interest and the servicer, applicant, person in control, employee, or agent has violated a requirement of this chapter, a standard of conduct, or engaged in any of the listed prohibited behaviors.

Subd. 2. Orders of the commissioner. Requires the commissioner, to begin a proceeding, to issue an order requiring the subject to show cause why an action should not be taken. Provides requirements relating to the order, suspension, and hearing.

Subd. 3. Actions against lapsed license. Allows the commissioner to institute a proceeding within two years of a license lapsing, being surrendered, withdrawn, or terminated and impose a civil penalty under this section or section 45.027, subdivision 6.

20 **[58B.10] Data practices.**

Subd. 1. Classification of data. States that data collected by the Department of Commerce under this chapter is governed by section 46.07.

Subd. 2. Data sharing. Clarifies that not public data under this chapter can be shared with certain parties.

21 **Grounds and notice.**

Clarifies that use of a private passenger vehicle when used by a volunteer driver is not an automobile for hire or compensation.

22 **Commercial vehicle.**

Clarifies that a private passenger vehicle driven by a volunteer driver is not a commercial vehicle.

23 **Definitions.**

(b) Clarifies that a private passenger vehicle driven by a volunteer driver is not a transportation network company vehicle.

(h) Defines volunteer driver.

24 **Definition.**

Adds a cross-reference to volunteer driver for purposes of special transportation service.

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- 25 **Applicability.**
Adds a cross-reference to volunteer driver for purposes of special transportation service.
- 26 **Background studies.**
Adds a cross-reference to volunteer driver for purposes of special transportation service.
- 27 **Passenger transportation; exemption.**
Adds a cross-reference to volunteer driver for purposes of special transportation service.
- 28 **Transportation costs.**
Adds a cross-reference to volunteer driver for purposes of medical assistance coverage of nonemergency medical transportation.
- 29 **Purchase of catalytic converters.**
Requires any person who purchases or receives a catalytic converter to record the vehicle identification number of the vehicle from which the catalytic converter was removed and the name of the person who performed the removal. Requires that information to be made available to law enforcement agencies at their request.
- 30 **Catalytic converter theft prevention pilot project.**
Directs the commissioner of commerce to establish a pilot project to place unique identification numbers on catalytic converters. Requires the commissioner to establish a procedure to mark catalytic converters, work with law enforcement agencies and scrap metal dealers to identify the types of vehicles most at risk for theft of catalytic converters, prioritize distribution of materials to areas with the highest rates of theft, make educational materials available, and report on the pilot project. Establishes that materials purchased under the program may be distributed to dealers, repair shops, and community organizations to assist in marking catalytic converters with unique identifiers.
- 31 **Abnormal market disruptions; unconscionably excessive prices.**
 Subd. 1. Definitions. Provides definitions for “abnormal market disruption,” “essential consumer good or service,” “seller,” and “unconscionably excessive.”

 Subd. 2. Prohibition. Provides that if the governor declares an abnormal market disruption a person is prohibited from selling an essential consumer good or service at an unconscionably excessive price.

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Subd. 3. Civil penalty. Applies a civil penalty of not more than \$1,000 per transaction with a maximum penalty of \$10,000 per day for violations of this section.

Subd. 4. Enforcement authority. Allows the attorney general to investigate alleged violations of this section and clarifies that the attorney general may use their powers under section 8.31 for these purposes.

Effective date. This section is effective the day following final enactment.

32 Enforcement.

Adds cross-references allowing the commissioner of commerce to enforce certain sections and coordinate with the commissioner of the Pollution Control Agency and commissioner of health in doing so.

33 Enforcement.

Adds cross-references allowing the commissioner of commerce to enforce certain sections and coordinate with the commissioner of the Pollution Control Agency and commissioner of health in doing so.

34 Enforcement.

Adds § 325F.179. Adds cross-references allowing the commissioner of commerce to enforce certain sections and coordinate with the commissioner of the Pollution Control Agency and commissioner of health in doing so.

35 Denial of Access.

Removes existing statutory language related to denying a person renting a storage unit access to the unit.

36 Access to certain items.

This section amends the items and process under existing law allowing a person to gain access to certain items in their storage space. This section allows a person renting a self-storage unit to remove specific items including personal papers and health aids from a storage unit. When the person is a recipient of government benefits, this section also allows them to remove tools of the trade and personal clothing worth less than \$125. This section also contains provisions related to enforcement of this section and costs and attorneys fees for a person who has to sue to enforce this provision.

37 Contents of notice.

Adds requirements to the existing notice an owner must send to a person renting a storage space when the person is in default.

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38 Sale of property.

Provides that the description of the property in published notice of sale must be a general description.

39 Addition notification requirements.

Removes a provision from existing statute saying a notice must include that a person cannot access their personal property after default.

40 Additional remedies.

Amends the process to remove a person from a storage unit that has failed to make payments or for other breaches of contract. This section provides that if a person has defaulted on their rent for their storage unit the owner can start an action to remove the person's belongings from the storage unit using a summons and requires the court to grant a hearing between seven and 14 days after the action is filed. This section also allows for an expedited hearing in certain cases and provides procedural requirements for the answer, trial, and judgment.

41 Third-party food delivery fees; limitation.

Subd. 1. Definitions. Defines delivery fee, food and beverage establishment, online order, purchase price, and third-party food delivery service.

Subd. 2. Limitation on food delivery fees. (a) Prohibits a third-party food delivery service from: (1) charging a delivery fee that is more than ten percent of the order's purchase price; (2) charging an additional fee that is more than five percent of the order's purchase price; (3) charging a customer a purchase price that is higher than that set by the food and beverage establishment; or (4) reducing compensation to drivers as a result of the limitation on fees created by this section.

(b) Allows a food and beverage establishment to spend more than the 15 percent limitation in paragraph (a) on marketing or advertising on the third-party food delivery service platform if they want.

Subd. 3. Enforcement by attorney general. Requires the attorney general to enforce this section and allows injured parties to bring a civil action and recover costs and attorney fees.

Effective date. This section is effective the day following final enactment and expires 60 days after the peacetime emergency declared by the governor in an executive order that relates to the infectious disease known as COVID-19 is terminated or rescinded.

Article 5: Collection Agencies and Debt Buyers

Section Description – Article 5: Collection Agencies and Debt Buyers

- 1 **Collection agency.**
Adds “debt buyer” to definition of collection agency or licensee.
- 2 **Collector.**
Adds “debt buyer” to definition of collector
- 3 **Debt buyer.**
Defines “debt buyer” as a business engaged in the purchase of indebtedness whether the business collects or hires another to collect or litigate.
- 4 **Affiliated company.**
Defines “affiliated company.”
- 5 **Transfer of administrative functions.**
Adds the term “debt buyer.”
- 6 **Exclusions.**
Makes clarifying changes.
- 7 **Requirement.**
Requires debt buyers to be licensed under this chapter and submit an application for a license if in current operation by January 1, 2022.
- 8 **Penalty.**
Adds the term “debt buyer.”
- 9 **License rejection.**
Makes clarifying changes.
- 10 **Individual collector registration.**
Makes clarifying changes.
- 11 **Changes; notice to commissioner.**
Makes clarifying changes.
- 12 **Screening process requirement.**
Makes clarifying changes.

Section Description – Article 5: Collection Agencies and Debt Buyers

- 13 **Affiliated companies.**
Requires the commissioner to allow affiliated companies to operate under a single license under certain circumstances.
- 14 **Bond.**
Makes clarifying changes.
- 15 **Segregated accounts.**
Clarifies that this section does not apply to debt buyers unless they engage in third party debt collection for others.
- 16 **Agency responsibility for collectors.**
Makes clarifying changes.
- 17 **Prohibited practices.**
(a) Adds the term “debt buyer” and makes clarifying changes.

(b) Clarifies that certain clauses do not apply to debt buyers unless they engage in third party debt collection for others.
- 18 **Notification to commissioner.**
Adds the term “debt buyer” and makes clarifying changes.
- 19 **Commissioner’s powers.**
Adds the term “debt buyer.”
- 20 **Verified financial statement.**
Makes clarifying changes.
- 21 **Record keeping.**
Adds the term “debt buyer” and requires debt buyers to reserve records of final entry used in their business for five years after final collection.
- 22 **Garnishment prohibitions on COVID-19 government assistance.**
Exempts government payments for COVID-19 relief issued by the federal, state, or tribal government from garnishment for debts for personal, family, or household purposes that an individual owes. Does not exempt the government payments from the collection of child support or spousal maintenance debts that are owed.

Effective date. This section is effective the day following final enactment and applies to government assistance provided on or after March 13, 2020.

Article 6: Miscellaneous

Section Description – Article 6: Miscellaneous

- 1 **Insurance Internet prelicense courses.**
Makes technical changes.

- 2 **Appraiser Internet prelicense courses.**
Requires appraiser prelicense education courses to meet the requirements established by the Appraiser Qualifications Board of the Appraisal Foundation and published in the most recent version of the Real Property Appraiser Qualification Criteria.

- 3 **Appraiser Internet continuing education courses.**
Requires appraiser continuing education courses to meet the requirements established by the Appraiser Qualifications Board of the Appraisal Foundation and published in the most recent version of the Real Property Appraiser Qualification Criteria.

- 4 **Prohibitions.**
Makes technical changes.

Effective date. This section is effective the day following final enactment.

- 5 **Exceptions.**
Allows coordinators and instructors of professional courses to display logos and branding under certain circumstances.

Effective date. This section is effective the day following final enactment.

- 6 **Duration; fees.**
Makes technical changes.

- 7 **Duties of commissioner; report.**
Makes technical changes.

- 8 **Surety bond requirement.**
Changes minimum transaction amount to require a surety bond from \$25,000 to zero.

- 9 **Notification to commissioner.**
Requires a dealer to notify the commissioner of commerce of any dealer representation termination within 10 days of the termination if the termination was based in whole or in part on a violation of this chapter.

Section Description – Article 6: Miscellaneous

- 10 **Amounts.**
 Makes technical changes.
- 11 **Initial license expiration; fee reduction.**
 Makes technical changes.
- 12 **Timely renewals.**
 Makes technical changes.
- 13 **Fraudulent, deceptive, and dishonest practices.**
 Makes technical changes.
- 14 **Evaluation.**
 Provides definition.
- 15 **Interagency appraisal and evaluation guidelines.**
 Provides definition.
- 16 **Licensed real property appraiser.**
 Changes the value range a licensed real property appraiser can appraise.
- 17 **Evaluation.**
 Allows a real estate appraiser to provide an evaluation.
- 18 **Licensed residential real property appraiser.**
 Changes the value range a licensed residential real property appraiser can appraise.
- 19 **Evaluation.**
 Clarifies that a licensed real estate appraiser does not need to comply with the Uniform Standards of Professional Appraisal Practice when providing an evaluation.
- 20 **Valuation bias.**
 Provides definition and requires licensees to complete a valuation bias course within two years of receiving a license.
- Effective date. This section is effective September 1, 2021. A real property appraiser who has received their license prior to the effective date of this section must complete the course required by this section by August 31, 2023.
- 21 **Abandoned underground storage tanks.**
 Adds to the definition of “abandoned underground petroleum storage tank” one that was taken out of service and is located on property that is being held by the state in

Section Description – Article 6: Miscellaneous

trust for local taxing districts under section 281.25. Provides that if at the time this type of property is forfeited the owner repurchases the property under section 282.241, the board's contracted cost for removal must include a special assessment and be returned to the board upon the sale of the property.

22 Assessment for department regional and national duties.

Removes expiration date.

Effective date. This section is effective the day following final enactment.

23 Electric cooperative powers.

(c) and (d) Allows an electric cooperative, an affiliate of the cooperative formed to provide broadband, or another entity pursuant to an agreement, to use electric transmission or distribution easements for broadband infrastructure under certain circumstances and with the specified notice provided.

(e), (f), (g) Provides information regarding property owners' rights regarding legal action, damages, and claims.

(h) Provides definitions and clarifies that this section does not limit a cooperative's existing easement rights.

Effective date. This section is effective the day following final enactment.

24 Term and fees.

Makes clarifying changes.

25 Information disclosure.

Requires a lead generator to include a disclosure on solicitations and advertisements.

26 Consumer education information.

Makes technical changes.

27 Appraiser Internet course requirements.

Allows the commissioner of commerce to approve a classroom or distance learning professional course which has not been approved by the International Distance Education Certification Center.

Effective date. This section is effective the day following final enactment and expires after the peacetime emergency declared by the governor is terminated or rescinded or December 31, 2021, whichever is later.

Section Description – Article 6: Miscellaneous

28 Minnesota Council on Economic Education.

Requires the Minnesota Council on Economic Education (MCEE) to use grants from the commissioner of education to provide professional development for K-12 teacher's relating to economic education, support direct to student economic and personal finance programs, and support higher education based centers for economic education. Requires the MCEE to submit a report to the commissioner of education on these efforts and provide fiscal reports as well.

Effective date. This section is effective the day following final enactment.

29 Consumer debt collection language barrier working group.

Subd. 1. Establishment. Requires the commissioner of commerce to convene a working group to review language barriers and the effect on creditors, debt collectors, and limited English proficient communities.

Subd. 2. Membership. Lists membership of working group.

Subd. 3. Report. Requires a report to the legislature by January 1, 2022. Requires the working group to examine certain issues.

30 Collection agency employees; work from home.

Allows employees of a collection agency to work at a location other than the licensee's business if other requirements are met.

Effective date. This section expires May 31, 2022.

31 Repealer.

Repeals sections 45.017, 45.306, subdivision 1, and 115C.13.



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